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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VYACHESLAV KHOMICH, et al.,

Plaintiffs,

No. CIV S-10-1882 GEB KJM PS

vs.

BANK OF AMERICA N.A., et al.,

FINDINGS AND RECOMMENDATIONS

Defendants.

_____ /

Defendants' motion to dismiss based on Federal Rule of Civil Procedure 12(b)(6) was submitted on the papers. Defendants have withdrawn the motion and now move to dismiss on the ground this action is duplicative of an earlier filed action, Khomich v. Bank of America, N.A., Case No. 2:10-CV-1866 FCD DAD. See Docket No. 15. The earlier filed action involves the same property and the same state court action; that action was removed from state court prior to the removal of the pending action.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed as duplicative.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within

1 fourteen days after being served with these findings and recommendations, any party may file
2 written objections with the court and serve a copy on all parties. Such a document should be
3 captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the
4 objections shall be served and filed within seven days after service of the objections. The parties
5 are advised that failure to file objections within the specified time may waive the right to appeal
6 the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

7 DATED: October 1, 2010.

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11 U.S. MAGISTRATE JUDGE